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October 12, 2006

Via Telecopier (212) 805-6382
Honorable Victor Marrero
United States District Judge
Southern District of New York
40 Centre Street - Suite 414
New York, New York 10007

Re: Phoenix Bulk Carriers Ltd. v. Kremikovtzi Trade
Fino Marine S.A. *et al.* v. Kremikovtzi Trade *et al.*
D'Amato Fratelli SPA v. Kremikovtzi Trade
Consolidated Civil Action No.: 05-CV-9559 (VM)(HP)

Dear Judge Marrero:

We represent GSHL Bulgaria S.A. in the above matter. We write to request a pre-motion conference for a motion to vacate the attachments effected by each of the above plaintiffs of, to varying extents, \$883,717.24 in funds at UBS Bank in New York which our client contends belong to it, rather than either of the defendants in the above actions.

As the Court may recall, Plaintiff, Phoenix Bulk Carriers Ltd., issued a subpoena and subpoena duces tecum to The Bank of New York to investigate the

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factual circumstances surrounding the ownership and transfer of the attached funds. That, and other discovery, is ongoing.

The basis for GSHL Bulgaria S.A.'s requested motion, however, is purely a legal question: whether, in view of the recent comment by the Second Circuit in Aqua Stoli Shipping, Ltd. v. Gardner Smith Pty, Ltd., 460 F.3d 434, 445 n.6 (2d Cir. 2006), funds present in an intermediary bank, such as UBS in this case, can be attached pursuant to Rule B.

Since the requested motion is potentially dispositive of these actions, we have directed this request to Your Honor, rather than Magistrate Judge Pitman.


We respectfully request that Your Honor advise whether the Court feels it necessary to convene a pre-motion conference to discuss this matter more fully, or if the Court prefers to proceed with the setting of a briefing schedule. For the Court's guidance, GSHL Bulgaria S.A. will be prepared to submit its initial motion papers by October 20th.

We thank the Court for its kind attention to this request.

Respectfully submitted,



Simon Harter

Request GRANTED. The next status/pre-motion conference herein is scheduled for <u>10-27-06</u> at <u>9:30 a.m.</u>	
SO ORDERED.	
<u>10-13-06</u> DATE	 VICTOR MARRERO, U.S.D.J.